

2011 DRAFTING REQUEST

Bill

Received: **01/17/2012**

Received By: **tdodge**

Wanted: **As time permits**

Companion to LRB:

For: **Chris Taylor 266-5342**

By/Representing: **Patrick Walsh**

May Contact:

Drafter: **tdodge**

Subject: **Health - public health**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to: **fern.knepp@legis.wisconsin.gov**
tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Radon measurers and mitigators

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 03/06/2012	jdye 03/07/2012					
/P1			rschluet 03/07/2012		mbarman 03/07/2012		S&L
/1	tdodge 03/13/2012	jdye 03/13/2012	rschluet 03/13/2012		mbarman 03/13/2012	lparisi 03/13/2012	

FE Sent For:

at intro
3-19-12

<END>

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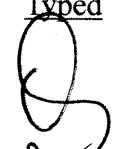
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/?	tdodge	PI 3/7 jld		rst/jm 3/11			

FE Sent For:

<END>

Robin,

Enclosed is some information that hopefully will help you draft Rep. Taylor's radon bill request.

She would like the bill to require radon testers to participate in EPA's Radon Measurement Proficiency (RMP) Program and radon mitigators to participate in EPA's Radon Contractor Proficiency (RCP) program in order to practice in Wisconsin. It's option 3 in the enclosed material.

Enclosed are also Iowa's statutes on minimum requirements for radon mitigation and testing. Rep. Taylor does not want to include Iowa's state accreditation in her bill draft but only the portion of their law that requires testers and mitigators to have successfully completed EPA's RMP and RCP programs.

Thanks. Please feel free to call me at 266-5342 if you have any questions.

Patrick Walsh

RADON TESTING AND MITIGATION SERVICES

Reliable and high-quality radon-related services, including testing and mitigation, are an integral part of a successful radon program. Home owners and other persons who wish to test for radon and mitigate high levels expect, and are entitled to, protection from sham and fraud in the provision of radon services. State legislation could protect the consumer and advance the professionalism of radon-related industries by enacting laws requiring licensure and/or certification for radon service providers.

WHAT IS CERTIFICATION AND LICENSING? Certification and/or licensure of testers and mitigators includes the approval of testing and mitigation services, testing devices, analytical services and mitigation techniques. The exact definition of these terms varies from state to state, so the extent to which radon-related services and devices are subject to certification or licensure should be decided on a case-by-case basis.

Factors to Consider:

Legislators may decide that a more or less extensive certification/licensure program is appropriate to address the particular circumstances in their state. A range of options for creating such programs is presented below. In evaluating these options, legislators may consider whether it is appropriate to provide **reciprocal approval to individuals or firms approved in another state**. Legislators may also want to consider whether their program should include some or all of the following requirements:

- a quality assurance plan for each radon company;
- background, education and/or experience requirements for radon professionals;
- training and/or an examination;
- office or site audits by the state radon agency; or
- licensure/certification fees.

ISSUE: HOW CAN A RADON PROGRAM ENSURE THAT INDIVIDUALS ARE PROPERLY QUALIFIED TO PROVIDE RADON-RELATED PRODUCTS AND CARRY OUT RADON SERVICES?

Option #1: Rely on EPA's voluntary radon proficiency programs.

In lieu of enacting its own legislation with radon proficiency requirements, a state could rely on the voluntary participation of radon professionals in EPA's voluntary radon proficiency programs. The Radon Measurement Proficiency (RMP) Program requires participants to demonstrate their ability to make accurate measurements and follow quality assurance and EPA measurement guidelines, in order to provide reliable measurement services to the public. The Radon Contractor Proficiency (RCP) Program trains radon contractors to evaluate radon problems, and to design and install an effective radon mitigation system.

Option #2: Create a voluntary radon proficiency program.

The state legislature could enact legislation establishing a voluntary program, similar to EPA's current RMP and RCP programs, but tailored to specific state needs. Radon businesses that join these programs could be granted the privilege of using the term "State radon qualified (or approved)" in advertising their services and products, and could become part of a list kept by the state radon program that would be given to persons interested in hiring radon professionals. The program could include features to enhance the quality of services, such as training (in class and on the job), yearly continuing educational programs and conferences, workshops or bulletins.

Option #3: Require radon testers and mitigators to participate in EPA's RMP and/or RCP programs.

Under this option, the state could pass legislation that requires testers and mitigators to participate in EPA's RMP and/or RCP programs in order to conduct business in the state. These radon businesses could be listed by the state radon program, and the list could be provided to interested members of the public. Firms that conduct radon businesses in the state without participating in these programs would be violating state laws. In developing this law, legislators may consider whether to extend state approval to firms that are located in other states and that have participated in EPA's voluntary programs, or that are licensed/certified by another state.

Option #4: Create a mandatory state radon proficiency program.

In addition to or in lieu of requiring participation in EPA's programs, the state legislature could enact a law that requires all providers of radon products and services doing business in the state to obtain a state-granted license and/or certificate. States might require a licensure or certification fee, which could be a one-time assessment, a recurring charge or both. Education requirements for radon professionals could also be made a part of the law. Legislators may consider extending state approval to firms that are located in other states and have obtained comparable approval there.

Such a law would likely prohibit non-certified/licensed businesses from operating in the state, and could include enforcement authorities and penalties to encourage compliance with its terms. Alternatively, this type of measure might be implemented by adding the prohibition to the state's existing consumer protection law.

Iowa requires that radon measurement specialists successfully complete EPA's RMP program, and that radon mitigation contractors complete EPA's RCP program. State laws and regulations establish additional criteria for state accreditation, including minimum age, work and experience requirements. Iowa performs on-site audits of measurement laboratories, operators and mitigation contractors. Iowa also imposes fees for both initial application and annual accreditation.

CHAPTER 43
MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

641—43.1(136B) Purpose and scope. This chapter establishes requirements for the certification of radon measurement specialists and radon measurement laboratories. All persons performing measurements for radon or radon progeny in buildings, other than those which they own or occupy, and who provide the results of these measurements to the owner or occupant of these structures must be certified in accordance with the provisions of this chapter.

641—43.2(136B) Definitions. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Iowa Radon Testing Act (Iowa Code chapter 136B).

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, and designed for the housing, shelter, enclosure and support of individuals.

"Certified person" means a certified radon measurement specialist or certified radon measurement laboratory as defined by this chapter.

"Certified radon measurement laboratory (certified laboratory)" means a commercial laboratory which may analyze samples or test for radon decay products and meets the provisions for certification in this chapter.

"Certified radon measurement specialist (certified specialist)" means an individual who performs radon or radon progeny measurements in buildings and provides professional or expert advice on radon and radon progeny measurements, radon entry routes, and other radon-related activities; is knowledgeable in the health risk associated from exposure to radon; and who meets the provisions for certification in this chapter.

"Compensation" means any form of monetary gain which in any way directly or indirectly results from a radon or radon progeny measurement being conducted.

"Department" means the Iowa department of public health.

"EPA" means the United States Environmental Protection Agency.

"Laboratory" means any person performing analysis, not at a testing site, on a passive device to measure radon or radon progeny (charcoal canister, alpha-track, electret, etc.).

"NEHA" means the National Environmental Health Association.

"NRSB" means the National Radon Safety Board.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, any other state or political subdivision or agency, and a legal successor, representative, agency or agencies of the entities listed in this paragraph.

"Picocurie per liter" means a quantity of radioactive material per liter of air that will produce 2.2 disintegrations per minute of radiation. It may be used as a measure of the concentration of radon gas in air. One curie is equivalent to one trillion picocuries.

"Radon" means the radioactive noble gas radon-222.

"Radon progeny" means the short-lived radionuclides formed as a result of the decay of radon-222, including polonium-218, lead-214, bismuth-214, and polonium-214.

"Working level (WL)" means the concentration of radon progeny that will result in 130,000 million electron volts of alphas particle energy released per liter of air. Working level is a measure of radon decay product concentration in air.

(2) Proof of successful completion of an examination approved by this department. A letter from NEHA or NRSB showing a passing score for the radon measurement specialist examination fulfills this requirement.

(3) Proof of two years of postsecondary education in architecture, natural science, engineering, or a related discipline. A college transcript must be included to fulfill this requirement or a detailed resume evidencing two years of relevant professional work experience, such as conducting professional home inspections; or the design and installation of heating, ventilation and air-conditioning systems; or the design or construction of buildings; or related activities approved by the department; or a combination of professional work experience and postsecondary education.

(4) A quality assurance/quality control (QA/QC) plan for all measurement devices and equipment. If laboratory devices are used, the names and addresses of the Iowa certified radon measurement laboratories must be included. If a continuous radon monitor is used, the name of the manufacturer, model, and picture of the monitor must be included. The manufacturer of any device used must have EPA or other national agency approval which indicates the device has been approved for measuring radon. Only measurement devices from Iowa certified radon measurement laboratories or a continuous radon monitor that has been satisfactorily calibrated and approved by the Iowa radon program are allowed for use in performing radon measurements.

(5) Standard operating procedures (SOPs). Procedures must include information concerning the placement and pickup of devices used, who performs the tests, and what measures will be used to ensure all tests are in conformance with EPA protocols and procedures.

(6) A signed statement that the individual will follow all EPA radon measurement guidelines and protocols.

(7) A signed statement that the individual will submit radon test results every 30 days to the Iowa radon program within the department. The radon test results may be submitted on a form, a diskette, or through E-mail in a manner that is approved by the department.

(8) A signed statement that the individual will keep all records for a minimum of five years after the radon test is completed.

(9) A copy of the confidentiality waiver that reports results to the customer as outlined in Iowa Code section 136B.2.

(10) A signed statement that the individual will submit to the department within 14 working days any changes in the original application and that the individual will acquire at least eight hours of continuing education credits every two years before certification is renewed.

(11) The fee specified in 43.4(6).

b. An application for a radon measurement laboratory must include:

(1) Proof of successful participation in the NEHA or NRSB Radon/Radon Progeny Measurement Proficiency Program.

(2) A quality assurance plan and quality control procedures for all measurements and equipment.

(3) A signed statement that all EPA, NEHA and NRSB and any department measurement guidelines and protocols will be followed.

(4) Name(s) and address(es) of any retail operation(s) selling the laboratory's testing service(s) within Iowa.

(5) A signed statement that all changes in the original application will be submitted to the department within 14 working days.

(6) The fee specified in 43.4(6).

43.4(2) The department may require the applicant to submit supplementary statements containing additional information to enable the department to determine whether an application should be approved or denied, or whether a previously issued certification should be amended, suspended, or revoked.

- e. Not fully cooperating with the department or its agents when field evaluations are being conducted;
 - f. Not attending a scheduled meeting or inspection set up by the department or its agents, when the certified person was previously notified and agreed to the time and location of the inspection;
 - g. Not submitting radon test data as required in 641—43.6(136B).
- 43.5(2)** The department may deny, suspend, revoke, modify the certification of a person, impose a civil penalty, or refer the case to the office of the county attorney for possible criminal penalties pursuant to Iowa Code chapter 136B, or any combination thereof, when it finds that a certified person or a person who is not certified has committed any of the following acts:
- a. Failing to submit required information or notifications in a timely manner;
 - b. Failing to maintain the required records;
 - c. Falsifying approval records, qualifications, or other information or documentation related to licensing approval;
 - d. Failing to comply with the training standards and requirements in 43.3(2);
 - e. Submitting in the application for approval or reapproval false or misleading statements which the department relied upon in approving the application;
 - f. Failing to comply with federal, state, or local statutes and regulations, including the requirements of this chapter;
 - g. Knowingly making misleading, deceptive, untrue, or fraudulent representations involving radon, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established;
 - h. Using untruthful or improbable statements in advertisements. Use of these statements includes, but is not limited to, the presentation of information to the public by training programs that is false, deceptive, or misleading, or that is promoted through fraud or misrepresentation;
 - i. Falsifying reports and records required by this chapter;
 - j. Accepting any fee by fraud or misrepresentation;
 - k. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board;
 - l. Failing to comply with the terms of a department order or the terms of a settlement agreement or consent order;
 - m. Representation by a firm or individual that the firm or individual is certified when the certification has been suspended or revoked or has not been renewed;
 - n. Failing to respond within 30 days of receipt of communication from the department that was sent by registered or certified mail;
 - o. Engaging in any conduct that subverts or attempts to subvert a department investigation;
 - p. Failing to comply with a subpoena issued by the department or failing to cooperate with a department investigation; or
 - q. Failing to pay costs assessed in any disciplinary action.

641—43.6(136B) Reporting requirements.

43.6(1) A certified person must submit to the department within 30 days after any radon/radon progeny testing, or at the request of the department prior to testing, the address or location of the building, the name and telephone number of the owner(s) of the building where the radon testing will be conducted and the results of any tests performed.

641—43.11(136B) Persons exempted from certification. Persons providing radon or radon progeny measurement devices to the public, but not conducting physical tests for the presence of radon or radon progeny with the measurement devices may do so under the following conditions:

1. They must provide measurement devices obtained from a laboratory certified in Iowa.
2. A valid visible expiration date must be permanently affixed to each measurement device.
3. In addition to the required laboratory instructions regarding measurement procedures, each measurement device must be accompanied by clear directions on where to obtain additional information and interpretation for test results. The certified laboratory or a certified specialist must be included as one of the sources of information and interpretation.

These rules are intended to implement Iowa Code chapter 136B.

[Filed 9/30/88, Notice 8/10/88—published 10/19/88, effective 11/23/88]

[Filed 1/14/91, Notice 10/17/90—published 2/6/91, effective 3/13/91]

[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]

[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]

[Filed 9/14/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]

[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 9/18/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]

CHAPTER 44
MINIMUM REQUIREMENTS FOR RADON MITIGATION

641—44.1(136B) Purpose and scope. This chapter establishes requirements for the credentialing of radon mitigation specialists. All persons performing abatement for radon or radon progeny in buildings, other than buildings which the persons occupy or are constructing for their own occupancy, must be credentialed in accordance with the provisions of this chapter. Credentialed mitigation specialists are responsible for ensuring that all radon mitigation systems for which they are responsible are installed following guidelines that are provided in this chapter.

641—44.2(136B) Definitions. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

"Active mitigation system" means any system or materials installed as an active part of a ventilation system used for the purpose of reducing radon or radon progeny concentrations by means of an in-line fan.

"ASTM E2121" means the American Society for Testing Materials International E2121, Standard Practice for Radon Mitigation Systems in Existing Low-Rise Residential Buildings.

"Credentialed radon mitigation specialist (mitigation specialist)" means an individual who evaluates diagnostic tests to determine appropriate radon or radon progeny mitigation strategies for a building, designs mitigation systems, installs or supervises the installation of radon or radon progeny mitigation techniques on buildings, and meets the requirements for credentialing provided by this chapter.

"Department" means the Iowa department of public health.

"Diagnostic tests" means tests performed or procedures used to determine appropriate mitigation methods for a building.

"EPA" means the United States Environmental Protection Agency.

"Mitigator" means a person who installs mitigation systems for the purpose of abating radon levels within buildings.

"Passive mitigation system" means any system or materials installed for the purpose of reducing radon or radon progeny concentrations without the use of an in-line fan.

"pCi/L" means a measurement of radon in picocuries per liter.

"Radon" means the radioactive noble gas radon-222.

"Radon progeny" means the short-lived radionuclides formed as a result of the decay of radon-222.

"RMS" means EPA Radon Mitigation Standards.

"Working level month (WLM)" means a cumulative exposure to radon decay products calculated by multiplying the radon daughter concentration in units of working levels by the number of hours exposed and dividing by 170.

641—44.3(136B) General provisions.

44.3(1) Except as provided in this chapter, no person may mitigate for radon or radon progeny in Iowa for a fee or other remuneration unless such a person has been credentialed by the department.

44.3(2) Individual qualifications for radon mitigation specialist. No individual may be credentialed as a radon mitigation specialist unless all of the following conditions are met. The individuals shall:

- a. Be at least 18 years of age at the time of application.

c. Not disclose to any other person, except to the department or its agents, the addressee or owner of a nonpublic building, the radon levels present in the building or abatement measures needed or performed, unless the building owner waives this right of confidentiality in writing.

d. Ensure that each building is tested for radon levels before and after mitigation work is performed. Such tests shall be of sufficient type, duration and consistency and shall be performed at such times and under such ventilation conditions as to allow for comparison of before and after mitigation radon levels. Premitigation and postmitigation radon tests shall be performed independently by a measurement specialist or technician who is not employed by the same firm as the mitigation specialist performing the mitigation. Postmitigation radon tests shall be started no sooner than one day after mitigation is completed. This requirement is not binding if the building owner waives the procedure, on a form prescribed by the department, before the mitigation process has started.

641—44.4(136B) Application for credentialing.

44.4(1) An application for credentialing or renewal of credentials as a radon mitigation specialist shall be filed on a form prescribed by the department, shall contain complete and accurate information and shall be accompanied by the appropriate fees as outlined in subrule 44.4(6).

44.4(2) The department may require the applicant to submit supplementary statements containing additional information to enable the department to determine whether an application should be approved or denied, or whether a previously issued credential should be amended, suspended, or revoked.

44.4(3) Each application or supplementary statement shall be signed by either the applicant personally, or a person authorized in writing by the applicant to do so on the applicant's behalf.

44.4(4) A credential will be valid for one year following the date of issuance. No radon abatement covered by this chapter can be commenced after the expiration of the term of credentialing unless an application for renewal has been received by the department within 30 days of the notice of expiration and the renewal application is deemed complete and acceptable by the department. All radon mitigation work commenced prior to expiration of credentialing must be completed within 30 days of the expiration date if renewal is not accomplished. If the application is rejected, no radon abatement may be conducted by that applicant in the state of Iowa if a financial arrangement is involved.

44.4(5) An application to renew credentials must be on a form approved by the department and must include the number of mitigation systems installed for the renewal period and any changes in the initial credentialing application, along with the fee specified in subrule 44.4(6).

44.4(6) Radon mitigation credentialing. Any person wishing to become credentialed as a radon mitigation specialist shall be required to pay fees sufficient to defray the cost of administering this chapter.

a. Application fee.

(1) Each person with Iowa residency wishing certification under the provisions of 641—Chapter 44 shall pay a nonrefundable \$25 application fee.

(2) Each person without Iowa residency wishing certification under 641—Chapter 44 shall pay a nonrefundable \$100 application fee.

b. Annual credentialing fee. Each individual requesting credentialing must:

(1) Pay an initial fee of \$150 which is refundable if credentialing is not completed.

(2) Pay annually a renewal fee of \$150 or \$40 per mitigation system installed (as defined in 641—44.2(136B)) costing more than \$200, whichever is greater. With each renewal, a credentialed person must submit legal documentation of the number of mitigation systems installed the previous credentialing year. This number will be used to calculate the renewal fee.

12. Failing to attend a scheduled meeting or inspection set up by the department or its agents, when the person holding the credentials was previously notified and agreed to the time and location of the inspection.

13. Failing to submit required information or notifications in a timely manner.

14. Failing to maintain the required records in 641—44.6(136B), and in EPA's Radon Mitigation Standards (RMS) EPA 402-R-93-078, October 1993 (Revised April 1994), and ASTM E2121 (NOTE: EPA has incorporated E2121 by reference and retained EPA's Radon Mitigation Standards (RMS) in effect until at least 2007).

15. Failing to comply with the training standards and requirements in 641—44.7(136B).

16. Failing to comply with federal, state, or local statutes and regulations, including the requirements of this chapter.

17. Knowingly making misleading, deceptive, untrue, or fraudulent representations involving radon, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

18. Using untruthful or improbable statements in advertisements. Use of these statements includes, but is not limited to, the presentation of information to the public by training programs that is false, deceptive, or misleading or that is promoted through fraud or misrepresentation.

19. Falsifying reports and records required by this chapter.

20. Accepting any fee by fraud or misrepresentation.

21. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the record.

22. Failing to comply with the terms of a department order or the terms of a settlement agreement or consent order.

23. Representation by a firm or individual that the firm or individual is credentialed when the credential has been suspended or revoked or has not been renewed.

24. Failing to respond within 30 days of receipt of communication from the department or an agent of the department that was sent by registered or certified mail.

25. Engaging in any conduct that subverts or attempts to subvert a department investigation.

26. Failing to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

27. Failing to pay costs assessed in any disciplinary action.

641—44.6(136B) Additional record-keeping requirements. A credentialed radon mitigation specialist shall maintain, for five years, a report of each mitigation activity which includes, but is not necessarily limited to:

1. The address or location of the building.

2. The name and phone number of the owner(s) of the building where the radon mitigation is conducted.

3. A written description of each mitigation system and materials installed, diagnostic test results and cost of each system.

4. The name of the certified radon measurement specialist or technician used to perform radon or radon progeny testing before and after radon mitigation of a building. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

Dodge, Tamara

From: Walsh, Patrick
Sent: Friday, February 17, 2012 1:54 PM
To: Dodge, Tamara
Subject: RE: Radon draft

Thank you. I did not know the federal government no longer operates a radon program and share your concerns about delegating authority to a private company. Could we require DHS to promulgate rules establishing criteria? I spoke briefly with Walton Smith of DHS's Indoor Air Program regarding the proposal. Perhaps they could be required to promulgate rules. His number is 266-2817 if you would like to speak to him.

Patrick Walsh
Legislative Aide
Office of Representative Chris Taylor
Patrick.Walsh@legis.wisconsin.gov
(608) 266-5342

From: Dodge, Tamara
Sent: Friday, February 17, 2012 1:40 PM
To: Walsh, Patrick
Subject: Radon draft

Patrick,

I am working on the radon draft, which I believe you spoke to Robin Kite of our office about, for Representative Taylor. You mention the EPA's Radon Measurement Proficiency Program and the EPA's Radon Contractor Proficiency Program. The EPA discontinued its national radon proficiency program in October of 1998. Now, private organizations (such as NEHA and NRSB) administer radon proficiency programs. Did you want a radon measurer or mitigator to have to participate in a proficiency program of one of the private organizations? There may be practical issues associated with picking just one organization. For example, that organization could cease to be in business.

I should also note that we discourage delegating a governmental function to a private organization with which we have no contract and over which we have no oversight. It is impermissible for the legislature to delegate its lawmaking function without clear guidelines even to an executive branch agency of the state. If this draft required completion of a proficiency program offered by one certain private agency, the legislature would essentially be delegating the determination of all standards for licensure to this agency. Depending on how the draft is worded, we can deal with some of these issues. Representative Taylor may choose to handle this however she wishes, but just keep that in mind.

If you have any questions, please feel free to contact me. I will wait to hear what direction Representative Taylor wants to take this draft before proceeding any further with the draft.

Thanks,
Tami

Tamara J. Dodge
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Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3835

TJD:.....

In. 3/6/12

Due Thurs.
3/8 if possible

jd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

✓

Gen

1

AN ACT ...; relating to: radon measurement and mitigation and granting
rule-making authority.

2

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

***NOTE: Please note that the language and format of this draft is based on the nurse aide registry under s. 146.40, except for the definitions which are based on Iowa law.

*

3

SECTION 1. 254.345 of the statutes is created to read:

4

254.345 Radon measurement and mitigation. (1) DEFINITIONS. In this

5

section:

6

(a) "Radon" means the radioactive noble gas radon, including short-lived

7

radionuclides formed as a result of the decay of radon.

8

(b) "Radon measurement" means placement of a device to measure the amount

9

of radon in a building.

1 (c) "Radon mitigation" means evaluation of reports of radon amounts to
2 determine mitigation strategies, design of mitigation systems, or installation or
3 supervision of installation of mitigation systems.

4 (2) REQUIREMENT FOR RADON MEASUREMENT. No person may perform a radon
5 measurement for a fee without first successfully completing instruction in a radon
6 measurement course that is approved under sub. (4) (a) and successfully completing
7 a radon measurement proficiency examination that is approved under sub. (4) (b).

****NOTE: I added "for a fee" to this provision to allow homeowners and landlords
to be able to place their own measurement devices without being registered by the
department. Is that okay?

8 (3) REQUIREMENT FOR RADON MITIGATION. No person may perform a radon
9 mitigation for a fee without first successfully completing instruction in a radon
10 measurement course that is approved under sub. (4) (a) and a radon mitigation
11 course that is approved under sub. (5) (a) and successfully completing a radon
12 measurement proficiency examination under that is approved under sub. (4) (b) and
13 a radon mitigation proficiency examination that is approved under sub. (5) (b).

****NOTE: Iowa requires radon mitigators to also have radon measurement
coursework, and this provision requires the same. Is that okay?

14 (4) RADON MEASUREMENT COURSE; PROFICIENCY EXAMINATION. (a) The department
15 shall review and approve radon measurement courses that satisfy the standards
16 determined by the department. The department may promulgate rules establishing
17 the application process for and standards for approval of radon measurement
18 courses. The department shall review the curriculum of each approved radon
19 measurement course at least once every 24 months following the date of approval to
20 determine whether the program continues to satisfy the standards for approval.
21 Under this paragraph, the department may, after providing notice, suspend or
22 revoke the approval of a radon measurement course if the course fails to satisfy the

1 standards for approval determined by the department or operates under conditions
2 that are other than those in effect at the time of approval of the course.

****NOTE: What happens if the department does not approve any courses?
Similarly, do you want the bill to have a delayed effective date for the requirement to pass
a course and an exam to allow the department to approve courses and examinations?

3 (b) The department shall review and approve radon measurement proficiency
4 examinations[✓] that satisfy the standards determined by the department. The
5 department may promulgate[✓] rules establishing the application process for and
6 standards for approval of radon measurement proficiency examinations. Under this
7 paragraph[✓], the department may, after providing notice, suspend or revoke the
8 approval of a[✓] radon measurement^{Proficiency examination} course^{examination} if the ^{course} fails to satisfy the standards
9 for approval determined by the department or operates under conditions that are
10 other than those in effect at the time of approval of the[✓] ^{examination} course.

11 (c) A radon measurement proficiency examination approved under[✓] par. (b)
12 shall notify the department to include an individual on the registry under[✓] sub. (6)
13 after the individual has successfully completed the radon measurement proficiency
14 examination.

15 (5) RADON MITIGATION COURSE; PROFICIENCY EXAMINATION. (a) The department[✓]
16 shall review and approve[✓] radon mitigation courses that satisfy the standards
17 determined by the department. The department may promulgate rules establishing
18 the application process for and standards for approval of radon mitigation courses.
19 The department shall review the curriculum of each approved radon mitigation
20 course at least once every 24[✓] months following the date of approval to determine
21 whether the program continues to satisfy the standards for approval. Under this
22 paragraph, the department may, after providing notice, suspend or revoke the
23 approval of a radon mitigation course if the course fails to satisfy the standards for

1 approval determined by the department or operates under conditions that are other
2 than those in effect at the time of approval of the course.

3 (b) The department shall review and approve[✓] radon mitigation proficiency
4 examinations that satisfy the standards determined by the department. The
5 department may promulgate rules establishing the application process for and
6 standards for approval of radon mitigation proficiency examinations.[✓] Under this
7 paragraph, the department may, after providing notice, suspend or revoke the
8 approval of a radon mitigation[✓] ~~course~~ ^{Proficiency examination} if the ~~course~~ ^{examination} fails to satisfy the standards for
9 approval determined by the department or operates under conditions that are other
10 than those in effect at the time of approval of the ~~course~~ ^{examination}.

11 (c) A radon mitigation proficiency examination approved under[✓] par. (b) shall
12 notify the department to include an individual on the registry under sub.[✓] (6) after the
13 individual has successfully completed the radon mitigation proficiency[✓] examination.

14 (6) REGISTRY.[✓] The department shall establish and maintain a registry that
15 contains all of the following:

16 (a) A listing of all individuals about whom the department is notified under sub.

17 (4) (c).[✓]

18 (b) A listing of all individuals about whom the department is notified under sub.

19 (5) (c).[✓]

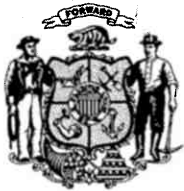
20 (c) A listing of all individuals who submit proof of valid credentials from
21 another state under[✓] sub. (7).

****NOTE: This draft requires that DHS maintain a registry of qualified radon measurers and radon mitigators, but does not require DHS to administer further licensing procedures. You may want to ask DHS how much maintenance of such a registry would cost. Please advise if you want to eliminate the registry or if you want to create procedures for remaining on the registry or being removed from the registry. If you keep the registry, do you want DHS to make it available to consumers. If you elect to eliminate the registry, you may consider whether it is necessary to have a mechanism for establishing compliance with the radon measurement or mitigation requirements.

(7) CREDENTIAL FROM ANOTHER JURISDICTION. (a) An individual who holds a valid credential to perform radon measurement in another state and who submits proof of that credential to the department may perform radon measurement to the extent that credential allows in this state without complying with sub. (2).

(b) An individual who holds a valid credential to perform radon mitigation in another state and who submits proof of that credential to the department may perform radon mitigation to the extent that credential allows in this state without complying with sub. (3).[✓]

(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3835 P1

TJD:jld:rs

In: 3/13/12

Due Wed
3/14 or sooner
if possible

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Insert
Analysis ✓

✓

Regen

- 1 AN ACT *to create* 254.345 of the statutes; **relating to:** radon measurement and
2 mitigation and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

***NOTE: Please note that the language and format of this draft is based on the nurse aide registry under s. 146.40, except for the definitions that are based on Iowa law.

- 3 **SECTION 1.** 254.345 of the statutes is created to read:
4 **254.345 Radon measurement and mitigation. (1) DEFINITIONS.** In this
5 section:
6 (a) "Radon" means the radioactive noble gas radon, including short-lived
7 radionuclides formed as a result of the decay of radon.
8 (b) "Radon measurement" means placement of a device to measure the amount
9 of radon in a building.

1 (c) "Radon mitigation" means evaluation of reports of radon amounts to
2 determine mitigation strategies, design of mitigation systems, or installation or
3 supervision of installation of mitigation systems.

4 (2) REQUIREMENT FOR RADON MEASUREMENT. No person may perform a radon
5 measurement for a fee without first successfully completing instruction in a radon
6 measurement course that is approved under sub. (4) (a) and successfully completing
7 a radon measurement proficiency examination that is approved under sub. (4) (b).

****NOTE: I added "for a fee" to this provision to allow homeowners and landlords
to be able to place their own measurement devices without being registered by the
department. Is that okay?

8 (3) REQUIREMENT FOR RADON MITIGATION. No person may perform a radon
9 mitigation for a fee without first successfully completing instruction in a radon
10 measurement course that is approved under sub. (4) (a) and a radon mitigation
11 course that is approved under sub. (5) (a) and successfully completing a radon
12 measurement proficiency examination under that is approved under sub. (4) (b) and
13 a radon mitigation proficiency examination that is approved under sub. (5) (b).

****NOTE: Iowa requires radon mitigators to also have radon measurement
coursework, and this provision requires the same. Is that okay?

14 (4) RADON MEASUREMENT COURSE; PROFICIENCY EXAMINATION. (a) The department
15 shall review and approve radon measurement courses that satisfy the standards
16 determined by the department. The department may promulgate rules establishing
17 the application process for and standards for approval of radon measurement
18 courses. The department shall review the curriculum of each approved radon
19 measurement course at least once every 24 months following the date of approval to
20 determine whether the program continues to satisfy the standards for approval.
21 Under this paragraph, the department may, after providing notice, suspend or
22 revoke the approval of a radon measurement course if the course fails to satisfy the

1 standards for approval determined by the department or operates under conditions
2 that are other than those in effect at the time of approval of the course.

***NOTE: What happens if the department does not approve any courses?
Similarly, do you want the bill to have a delayed effective date for the requirement to pass
a course and an exam to allow the department to approve courses and examinations?

3 (b) The department shall review and approve radon measurement proficiency
4 examinations that satisfy the standards determined by the department. The
5 department may promulgate rules establishing the application process for and
6 standards for approval of radon measurement proficiency examinations. Under this
7 paragraph, the department may, after providing notice, suspend or revoke the
8 approval of a radon measurement proficiency examination if the examination fails
9 to satisfy the standards for approval determined by the department or operates
10 under conditions that are other than those in effect at the time of approval of the
11 examination.

12 (c) A radon measurement proficiency examination approved under par. (b)
13 shall notify the department to include an individual on the registry under sub. (6)
14 after the individual has successfully completed the radon measurement proficiency
15 examination.

16 (5) RADON MITIGATION COURSE; PROFICIENCY EXAMINATION. (a) The department
17 shall review and approve radon mitigation courses that satisfy the standards
18 determined by the department. The department may promulgate rules establishing
19 the application process for and standards for approval of radon mitigation courses.
20 The department shall review the curriculum of each approved radon mitigation
21 course at least once every 24 months following the date of approval to determine
22 whether the program continues to satisfy the standards for approval. Under this
23 paragraph, the department may, after providing notice, suspend or revoke the

1 approval of a radon mitigation course if the course fails to satisfy the standards for
2 approval determined by the department or operates under conditions that are other
3 than those in effect at the time of approval of the course.

4 (b) The department shall review and approve radon mitigation proficiency
5 examinations that satisfy the standards determined by the department. The
6 department may promulgate rules establishing the application process for and
7 standards for approval of radon mitigation proficiency examinations. Under this
8 paragraph, the department may, after providing notice, suspend or revoke the
9 approval of a radon mitigation proficiency examination if the examination fails to
10 satisfy the standards for approval determined by the department or operates under
11 conditions that are other than those in effect at the time of approval of the
12 examination.

13 (c) A radon mitigation proficiency examination approved under par. (b) shall
14 notify the department to include an individual on the registry under sub. (6) after the
15 individual has successfully completed the radon mitigation proficiency examination.

16 (6) REGISTRY. The department shall establish and maintain a registry that
17 contains all of the following:

18 (a) A listing of all individuals about whom the department is notified under sub.

19 (4) (c).

20 (b) A listing of all individuals about whom the department is notified under sub.

21 (5) (c).

22 (c) A listing of all individuals who submit proof of valid credentials from
23 another state under sub. (7).

****NOTE: This draft requires that DHS maintain a registry of qualified radon
measurers and radon mitigators, but does not require DHS to administer further
licensing procedures. You may want to ask DHS how much maintenance of such a

registry would cost. Please advise if you want to eliminate the registry or if you want to create procedures for remaining on the registry or being removed from the registry. If you keep the registry, do you want DHS to make it available to consumers. If you elect to eliminate the registry, you may consider whether it is necessary to have a mechanism for establishing compliance with the radon measurement or mitigation requirements.

1 (7) CREDENTIAL FROM ANOTHER JURISDICTION. (a) An individual who holds a valid
2 credential to perform radon measurement in another state and who submits proof
3 of that credential to the department may perform radon measurement to the extent
4 that credential allows in this state without complying with sub. (2).

5 (b) An individual who holds a valid credential to perform radon mitigation in
6 another state and who submits proof of that credential to the department may
7 perform radon mitigation to the extent that credential allows in this state without
8 complying with sub. (3).

9

(END)

Insert 5-9 ✓

DHS

1 INSERT ANALYSIS

Under current law, the Department of Health Services (DHS) is required to develop standards of performance for the regional radon centers and distribute funds based on compliance with the standards to provide radon protection information dissemination from the regional radon centers. Radon is a radioactive noble gas. This bill requires that to place a device to measure the amount of radon in a building (radon measurement) for a fee a person must complete instruction in a radon measurement course that is approved by DHS and a radon measurement proficiency examination that is also approved by DHS. DHS may suspend or revoke the approval of a radon measurement course or a radon measurement proficiency examination if the course or examination fails to satisfy the department's standards or operates under conditions other than those in effect at the time of approval. The radon measurement proficiency examination must notify DHS for inclusion on a registry those individuals who successfully complete the examination.

The bill also requires that to evaluate reports of radon amounts to determine mitigation strategies, design mitigation systems, or install or supervise the installation of mitigation systems (radon mitigation) for a fee a person must successfully complete all of the following that are approved by DHS: a radon measurement course, a radon mitigation course, a radon measurement proficiency examination, and a radon mitigation proficiency examination. DHS, under the bill, may suspend or revoke approval of a radon mitigation course or radon mitigation proficiency examination under the same conditions as it may suspend or revoke a radon measurement course or radon measurement proficiency examination. The radon mitigation proficiency examination must notify DHS for inclusion on a registry those individuals who successfully complete the examination.

Under the bill, anyone who holds a valid credential to perform radon measurement in another state and who submits proof of that credential to DHS may perform radon measurement in this state, to the extent that credential allows, without completing the course and examination approved by DHS. Similarly, anyone who holds a valid credential to perform radon mitigation in another state and who submits proof of that credential to DHS may perform radon mitigation in this state, to the extent the credential allows, without completing the courses and examinations approved by DHS.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

(END INSERT ANALYSIS)

2 INSERT 5-9

3 **SECTION 1. Effective dates.** This act takes effect on the day after publication,
4 except as follows:



INS 5-9

cont

1

2

(1) The treatment of section 254.345 (2)✓ and (3)✓ of the statutes, as created by
this act, takes effect on the first day of the 13th month beginning after publication.✓

(END INSERT 5-9)

Barman, Mike

From: Walsh, Patrick

Sent: Tuesday, March 13, 2012 3:29 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-3835/1 Topic: Radon measurers and mitigators

Please Jacket LRB 11-3835/1 for the ASSEMBLY.

3/13/2012